

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ARCHITECTURAL IRON WORKERS')	
UNION LOCAL NO. 63 WELFARE PLAN, et.al.,)	
)	
Plaintiffs,)	
)	
v.)	Judge Conlon
)	Case No.: 08 C 1440
)	
WINDY CITY IRON WORKS, INC.)	
)	
)	
)	
Defendant.)	

Motion For Judgment By Default

Plaintiffs, by its Attorney, Frank A. Marco, move this Court to enter Judgment by Default according to Rule 55 of the Federal Rules of Civil Procedure for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on March 18, 2008 no answer or complaint has been filed. Defendant was personally served with a copy of the Complaint and Summons on March 18, 2008. **(Group Exhibit A)**
2. The Defendant failed to appear, answer or otherwise plead within the time allowed by the Federal Rules of Civil Procedure. As a result, the court found the defendant in default.
3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements, which created the Trust Funds.
4. The Defendant failed to submit \$10,063.02 in contributions, damages, interest and fees to the Trust Funds. **(Exhibit B)**

5. The Defendant owes the sum of \$2,147.50 for necessary and reasonable attorney fees and costs which are collectible under the terms of the Collective Bargaining Agreements, Trust Agreements and Federal law (29U.S.C. §1132(g)(2)(b)). **(Exhibit C)**

WHEREFORE, Plaintiffs move for Judgment by Default in the amount of \$12,210.52.

By: S/Frank A. Marco
FRANK A. MARCO

Frank A. Marco
Attorney for Plaintiffs
2 North LaSalle Street, Suite 1650
Chicago, IL 60602
312/263-2343

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SUMMONS IN A CIVIL CASE

ARCHITECTURAL IRON WORKERS'
LOCAL NO. 63, et. al.

v.

WINDY CITY IRON WORKS, INC.

TO: (Name and address of defendant)

Windy City Iron Work, Inc.
Vladimir Nahalka, Registered Agent
1334 N. Kostner
Chicago, IL 60651

Docket Number: _____
Assigned Judge: **08 C 1440**

Designated **JUDGE CONLON**
Magistrate Judge: **MAGISTRATE JUDGE BROWN**

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY
(name and address)

Frank A. Marco
Gregorio & Associates
2 North LaSalle Street, Suite 1650
Chicago, Illinois 60602

an answer to the complaint which is herewith served upon you, within 20 days after service of
this summons upon you exclusive of the day of service. If you fail to do so, judgment by default
will be taken against you for the relief demanded in the complaint. You must also file your
answer with the Clerk of this Court within a reasonable period of time after service.

Michael W. Dobbins, Clerk

Date

Janette Nunez

(By) DEPUTY CLERK

March 11, 2008

Date



ClientCaseID:
Law Firm ID: GREGORIO



CaseReturnDate: 3/31/08

Affidavit of Special Process Server

UNITED STATES DISTRICT COURT

Case Number 08C1440

I, LAMONT W. LEE

FIRST DULY SWORN ON OATH STATES THAT I AM OVER 18 YEARS OF AGE AND NOT A PARTY TO THIS SUIT AND IS A REGISTERED EMPLOYEE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION PRIVATE DETECTIVE AGENCY #117-001292 STERN PROCESS & INVESTIGATION LLC 205 W. RANDOLPH ST. #1210 CHICAGO IL 60606

CORPORATE SERVICE

THAT I SERVED THE WITHIN **SUMMONS AND COMPLAINT**
ON THE WITHIN NAMED DEFENDANT **WINDY CITY IRON WORKS INC**
PERSON SERVED **TIM NAHALKA-OWNER**
BY LEAVING A COPY OF EACH WITH THE SAID DEFENDANT ON 3/18/08

That the sex, race and approximate age of the person whom I left the **SUMMONS AND COMPLAINT**
are as follow:

Sex MALE Race WHITE Age 44
Height 6'0 Build HEAVY Hair BALD

LOCATION OF SERVICE **1334 N KOSTNER**
CHICAGO, IL, 60651

Date Of Service 3/18/08

Time of Service 4:00 PM

LAMONT W. LEE
Special Process Server
P.E.R.C.#129-210256

3/19/2008

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statement are true and correct, except as to matters therein stated to be on information and belief and such matters the undersigned certifies as aforesaid that he/she verily believes same to be true.

IN THE UNITED STATES DISTRICT COURT
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ARCHITECTURAL IRON WORKERS')	
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v.)	Judge Conlon
)	Case No.: 08 C 1440
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WINDY CITY IRON WORKS, INC.)	
)	
Defendant.)	

Affidavit of Ray Dean

Now comes RAY DEAN who after being duly sworn upon oath states as follows:

1. I am the chairman for the Architectural Iron Workers Local Union No. 63 Welfare Fund and in such capacity I am authorized to make this Affidavit on behalf of the Trust Funds.
2. The Defendant owes \$9,140.75 in contributions for the months of February, March, April, and May of 2008. This amount is an estimate, based upon contributions owed from the prior year for these months. The Defendant is required to submit contributions and reports indicating the actual hours worked by its employees, but it has failed to do so. This is our best estimate of the contributions otherwise due. In addition, pursuant to the Trust Agreements, liquidated damages are owed in the amount of \$827.99, and interest is owed in the amount of \$94.28.
3. The interest calculation was based on the relevant Trust Agreements that specify the rate of interest, at 12% per annum.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to matters the undersigned certifies as aforesaid that he verily believes the same to be true.

By: _____

RAY DEAN



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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ARCHITECTURAL IRON WORKERS')	
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WINDY CITY IRON WORKS, INC.)	
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)	
)	
)	
Defendant.)	

Attorney fee Affidavit in Support of
Motion for Judgment by Default

NOW COMES FRANK A. MARCO, who after being duly sworn upon oath, states as follows:

1. I am an associate of Gregorio & Associates and am licensed to practice law in the State of Illinois and for the Northern District of Illinois.
2. I have personal knowledge of the facts stated herein and if called to testify in this matter, I can competently testify to such facts from my own such knowledge.
3. I have in excess of 14 years experience practicing law and in excess of 9 years experience representing trustees of employee benefit plans, including the prosecution of Federal Court litigation to collect delinquent employer contributions.
4. The Collective Bargaining Agreement and the Trust Agreements under which this action is based provide for the payment of liquidated damages, audit fees and attorneys' fees and costs incurred for failure of a signatory contractor to pay contributions in accordance with those agreements.
5. I devoted 8.5 hours in connection with the above-captioned case at the rate of \$205.00 per hour resulting in attorney's fees totaling \$1,742.50.
6. In addition, the filing fee was \$350.00 and the process server fee was \$55.00.



I certify that the foregoing costs and attorneys fees totaling \$2,147.50 were necessary and reasonable.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to matters the undersigned certifies as aforesaid that he verily believes the same to be true.

By: 
FRANK A. MARCO